

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----	X	
	:	
<b>AFSHIN MONSEFI, Individually and on</b>	:	
<b>Behalf of All Those Similarly Situated,</b>	:	
	:	<b>ECF Filed</b>
<b>Plaintiff,</b>	:	
	:	<b>08-Civ. 1328 (RJS)</b>
<b>vs.</b>	:	
	:	
<b>ORION ENERGY SYSTEMS, INC., et al</b>	:	
	:	
<b>Defendants.</b>	:	
-----	X	
<i>(Additional captions on the following pages)</i>		

**DECLARATION OF ROY L. JACOBS IN SUPPORT OF MOTION OF  
THE ELDER GROUP FOR CONSOLIDATION, APPOINTMENT AS LEAD  
PLAINTIFF, AND APPROVAL OF SELECTION OF LEAD COUNSEL**

----- X	
<b>JASON ALLEN Individually, and On Behalf :</b>	:
<b>of All Others Similarly Situated,</b>	:
	:
<b>Plaintiff,</b>	:
	:
<b>v.</b>	:
	:
<b>ORION ENERGY SYSTEMS, INC., et al</b>	:
	:
<b>Defendants.</b>	:
	:
----- X	
<b>WILLIAM GOLDSTEIN, Individually, and :</b>	:
<b>On Behalf of All Others Similarly Situated,</b>	:
	:
<b>Plaintiff,</b>	:
	:
<b>v.</b>	:
	:
<b>ORION ENERGY SYSTEMS, INC., et al</b>	:
	:
<b>Defendants.</b>	:
	:
----- X	

**ECF FILED**

**08-Civ. 1992 (RJS)**

**ECF FILED**

**08-Civ. 2984**

Roy L. Jacobs declares under penalty of perjury this day 11th day of April, 2008:

1. I am one of plaintiffs' counsel in this action I am an of counsel to Paskowitz & Associates in this litigation. I submit this declaration in support of the motion of the Elder Group for consolidation, appointment as lead plaintiff, and for approval of selection of lead counsel.

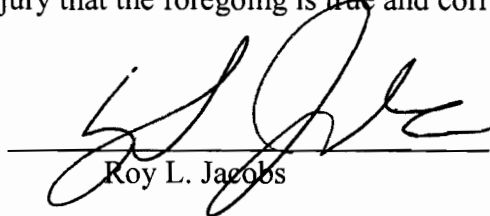
2. Attached hereto as Exhibit A is a true and correct copy of the signed certifications of the Elder Group pursuant to the requirements of the Private Securities Litigation Reform Act of 1995. 15 U.S.C. §77z-1(a)(2).

3. Attached hereto as Exhibit B is a true and correct copy of a chart of the Elder Groups' transactions and approximate losses in Orion Energy Systems, Inc. ("Orion Energy") securities.

4. Attached hereto as Exhibit C is a true and correct copy of the notice to class members concerning the first-filed of the above-captioned actions that was published on February 11, 2008 on PrimeNewswire, advising the public of the pendency of a class action filed on behalf of shareholders of Limelight.

5. Attached hereto as Exhibit D is a true and correct copy of the firm resume of Paskowitz & Associates.

I hereby declare under penalty of perjury that the foregoing is true and correct.

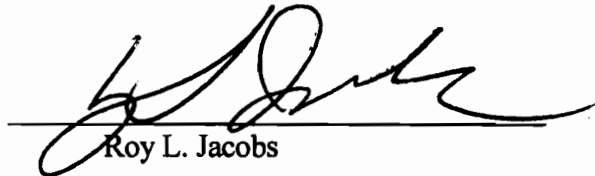


Roy L. Jacobs

**CERTIFICATE OF SERVICE**

I, Roy L. Jacobs an attorney admitted to the United States District Court for the Southern District Court of New York, one of plaintiff's counsel in this action, hereby certifies that on April 11, 2008, I caused to be filed an electronic copy of foregoing document via the ECF System which will send Notice of Electronic Filing by email to all ECF participant law firms.

Dated: April 11, 2008



Roy L. Jacobs

# **EXHIBIT A**

# **EXHIBIT A**

**PLAINTIFF'S CERTIFICATE**

The undersigned ("Plaintiff") declares, as to the claims asserted under the federal securities laws, that:

Plaintiff has reviewed the complaint of Orion Energy Systems, Inc. and certain other defendants.

Plaintiff did not acquire the security that is the subject of this action at the direction of plaintiff's counsel or in order to participate in this private action or any other litigation under the federal securities laws.

Plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary.

Plaintiff will not accept any payment for serving as a representative party on behalf of the class beyond the Plaintiff's pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the class as approved by the court.

Plaintiff made the following transactions during the Class Period (December 18, 2007 through February 6, 2008) in the common shares of Orion:

**Purchases**

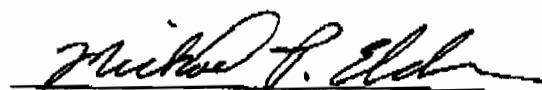
Date(s)	Number of Shares	Price
12/26/07	423	\$ 20.47
12/26/07	68	\$ 20.45
12/26/07	9	\$ 20.10

**Sales**

Date(s)	Number of Shares	Price
2/8/08	500	\$ 8.90

During the three years prior to the date of this Certification, Plaintiff has not sought to serve or served as a representative party for a class in an action filed under the federal securities laws.

I declare under penalty of perjury, this 16<sup>th</sup> day of February 2008 that the information above is accurate.

  
E-signed

**PLAINTIFF'S CERTIFICATE**

The undersigned ("Plaintiff") declares, as to the claims asserted under the federal securities laws, that:

Plaintiff has reviewed the complaint of Orion Energy Systems, Inc. and certain other defendants.

Plaintiff did not acquire the security that is the subject of this action at the direction of plaintiff's counsel or in order to participate in this private action or any other litigation under the federal securities laws.

Plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary.

Plaintiff will not accept any payment for serving as a representative party on behalf of the class beyond the Plaintiff's pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the class as approved by the court.

Plaintiff made the following transactions during the Class Period (December 18, 2007 through February 6, 2008) in the common shares of Orion:

**Purchases**

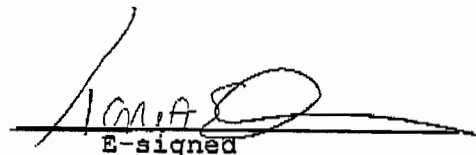
Date(s)	Number of Shares	Price
12/26/07	423	\$ 20.49
12/26/07	77	\$ 20.49

**Sales**

Date(s)	Number of Shares	Price
2/8/09	500	\$ 8.90

During the three years prior to the date of this Certification, Plaintiff has not sought to serve or served as a representative party for a class in an action filed under the federal securities laws.

I declare under penalty of perjury, this 16<sup>th</sup> day of February 2008 that the information above is accurate.

  
E-signed

## PLAINTIFF'S CERTIFICATE

Boris Nayflish ("Plaintiff"), declares, as to the claims asserted under the federal securities laws, that:

1. Plaintiff has reviewed the complaint against Orion Energy Systems, Inc. and certain other defendants.
2. Plaintiff did not acquire the security that is the subject of this action at the direction of plaintiff's counsel or in order to participate in this private action or any other litigation under the federal securities laws.
3. Plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition, and trial if necessary.
4. Plaintiff will not accept any payment for serving as a representative party on behalf of the class beyond the Plaintiff's pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the class as approved by the court.
5. Plaintiff made the following transactions during the Class Period (December 18, 2007, to February 06, 2008) in the common shares of Orion Energy Systems, Inc.:

<b>Purchases</b>
------------------

Date(s)	Number of shares	Price
12/19/2007	100	20.50
12/20/2007	300	21.00
12/26/2007	300	22.46

<b>Sales</b>
--------------

Date(s)	Number of shares	Price

6. During the three years prior to the date of this Certification, Plaintiff has not sought to serve or served as a representative party for a class in an action filed under the federal security law.
7. I declare under penalty of perjury, this 11 day of February, 2008 that the information above is accurate.

Boris Nayflish

e-signed



## PLAINTIFF'S CERTIFICATE

john p aliano ("Plaintiff"), declares, as to the claims asserted under the federal securities laws, that:

1. Plaintiff has reviewed the complaint against Orion Energy Systems, Inc. and certain other defendants.
2. Plaintiff did not acquire the security that is the subject of this action at the direction of plaintiff's counsel or in order to participate in this private action or any other litigation under the federal securities laws.
3. Plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition, and trial if necessary.
4. Plaintiff will not accept any payment for serving as a representative party on behalf of the class beyond the Plaintiff's pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the class as approved by the court.
5. Plaintiff made the following transactions during the Class Period (December 18, 2008, to February 06, 2008) in the common shares of Orion Energy Systems, Inc.:

<b>Purchases</b>
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Date(s)	Number of shares	Price
2/4/08	1000	14.50

<b>Sales</b>
--------------

Date(s)	Number of shares	Price

6. During the three years prior to the date of this Certification, Plaintiff has not sought to serve or served as a representative party for a class in an action filed under the federal security law.
7. I declare under penalty of perjury, this 11 day of February, 2008 that the information above is accurate.

john p aliano

e-signed

# **EXHIBIT B**

# **EXHIBIT B**

**SUMMARY OF LOSSES BY THE ELDER GROUP**

<b>NAME</b>	<b>LOSS</b>
MICHAEL ELDER	\$5,780.00
TONIA ELDER	\$5,795.00
BORIS NAYFISH	\$7,821.00
JOHN ALIANO	\$5,130.00
<b>TOTAL</b>	<b>\$24,526.00</b>

**MICHAEL ELDER****OESX LOSS CHART**

DATE	BOT	SOLD	PRICE	COST	REVENUE
12/26/2007	423		20.47	8,659	
12/26/2007	68		20.45	1,391	
12/26/2007	9		20.10	181	
2/8/2008		500	8.90		4,450
<b>Totals</b>	<b>500</b>	<b>500</b>		<b>10,230</b>	<b>4,450</b>

**Shares Remaining**                      **0**

**Loss**                      **\$5,780**

Loss calculated taking into account the limitation on damages in the PSLRA averaging the closing prices from February 7, 2008 through February 8, 2008, and obtaining \$8.81 per share

**TONIA ELDER****OESX LOSS CHART**

<b>DATE</b>	<b>BOT</b>	<b>SOLD</b>	<b>PRICE</b>	<b>COST</b>	<b>REVENUE</b>
12/26/2007	423		20.49	8,667	
12/26/2007	77		20.49	1,578	
2/8/2008		500	8.90		4,450
<b>Totals</b>	<b>500</b>	<b>500</b>		<b>10,245</b>	<b>4,450</b>

**Shares Remaining**                      **0**

**Loss**                      **\$5,795**

Loss calculated taking into account the limitation on damages in the PSLRA averaging the closing OESX prices from February 7, 2008 through February 8, 2008, and obtaining \$8.81 per share

**BORIS NAYFISH****OESX LOSS CHART**

<b>DATE</b>	<b>BOT</b>	<b>SOLD</b>	<b>PRICE</b>	<b>COST</b>	<b>REVENUE</b>
12/19/2007	100		20.50	2,050	
12/20/2007	300		21.00	6,300	
12/16/2007	300		20.10	6,030	
<b>Totals</b>	<b>700</b>	<b>0</b>		<b>14,380</b>	<b>0</b>
<b>Shares Remaining</b>		<b>700</b>			<b>9.37</b>
<b>Loss</b>	<b>\$7,821</b>				

Loss calculated taking into account the limitation on damages in the PSLRA averaging the closing OESX prices from February 7, 2008 through April 8, 2008, and obtaining \$9.37 per share

**JOHN ALIANO****OESX LOSS CHART**

<b>DATE</b>	<b>BOT</b>	<b>SOLD</b>	<b>PRICE</b>	<b>COST</b>	<b>REVENUE</b>
2/4/2008	1000		14.50	14,500	
<b>Totals</b>	<b>1000</b>	<b>0</b>		<b>14,500</b>	

<b>Shares Remaining</b>	<b>1000</b>				<b>9.37</b>
-------------------------	-------------	--	--	--	-------------

<b>Loss</b>	<b>\$5,130</b>				
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Loss calculated taking into account the limitation on damages in the PSLRA averaging the closing OESX prices from February 7, 2008 through April 8, 2008, and obtaining \$9.37 per share

# **EXHIBIT C**

# **EXHIBIT C**



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Press Release

Source: Roy L. Jacobs, Esq.

## Roy Jacobs & Associates Files Class Action Lawsuit On Behalf of Purchasers of Orion Energy Systems, Inc. Securities -- OESX

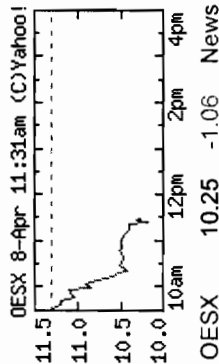
Monday February 11, 2:37 pm ET

NEW YORK, Feb. 11, 2008 (PRIME NEWSWIRE) -- Roy Jacobs & Associates announces that it has commenced a Class Action lawsuit in the United States District Court for the Southern District of New York on behalf of a class (the "Class") of all persons who purchased or acquired the common shares of Orion Energy Systems, Inc. ("Orion" or the "Company") (NasdaqGM:OESX - News) in the Initial Public Offering ("IPO") on December 18, 2007 or in the open market from December 18, 2007 through February 6, 2008 (the "Class Period").

For further information, please contact Roy L. Jacobs, Esq. toll-free at 1-888-884-4490 or by e-mail to [rjacobs@jacobsclasslaw.com](mailto:rjacobs@jacobsclasslaw.com). You may also sign up at our website at <http://www.jacobsclasslaw.com>.

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### Related News Stories

- [Attention Investors: Klafter & Olsen, LLP Reminds Investors That Only Seven Days Remain Until the April 11, 2008 Deadline to Request Lead Plaintiff Status - PR Newswire \(Fri Apr 4\)](#)
- [Trane - Global Leader in Air Conditioning Solutions - Deploys Orion Energy Systems Technology At Georgia Production Facility to Reduce Energy Consumption and Improve Light Levels - PrimeNewsWire \(Thu Apr 3\)](#)
- [Orion Energy Systems EVP Michael Potts to Speak At University of Wisconsin-Madison's Nelson Institute - PrimeNewsWire \(Wed Apr 2\)](#)

With respect to the IPO, Orion realized over \$78 million in proceeds, while Chief Executive Officer Neal R. Verfuert ("Verfuert") and family sold 600,000 shares for proceeds of approximately \$7 million. On February 6, 2008, just weeks after its IPO, Orion revealed news concerning the Company which completely surprised analysts and

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2008 conference call, Orion executives, including Verfuert, appeared unable to explain to the satisfaction of securities analysts this surprising news about the business model change on the heels of the IPO, or its impact on revenues.

The complaint charges Orion, certain of its officers and directors and the underwriters who sponsored the IPO with violation of the federal securities laws by issuing a Registration Statement and Prospectus in connection with the IPO which was materially false or misleading due to omissions. The law generally imposes strict liability on defendants responsible for a materially false Registration Statement and Prospectus, including for purchases made in the open market after the IPO; no fraud need be proved to recover.

If you purchased Orion shares during the Class Period, December 18, 2007 through February 6, 2008, you may qualify to serve as Lead Plaintiff on behalf of the Class. All motions for appointment as Lead Plaintiff must be filed by April 11, 2008. If you wish to discuss this action or have any questions concerning this notice or your rights with respect to this matter, please contact Roy L. Jacobs. Mr. Jacobs will personally speak with you at no cost or obligation.

You may also join this action by visiting our website at <http://www.jacobsclasslaw.com>.

More information on this and other class actions can be found on the Class Action Newsline at <http://www.primenewswire.com/ca>.

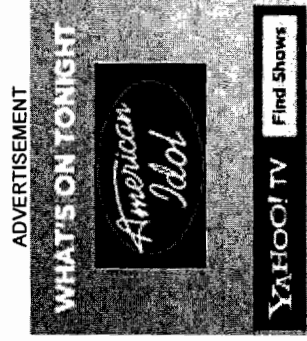
Contact:

investors, and caused the stock to drop approximately 43%, to a price of \$8.51 per share.

Orion is a manufacturer of efficient lighting and energy systems to businesses. The Prospectus for its IPO described a Company that was quickly growing revenues from existing product lines, and briefly described product line extensions. After the close of trading on February 6, 2008, Orion revealed that revenues in its current fiscal quarter would decline as the Company took aggressive measures to promote a "new business model," a change in focus that is alleged not to have been adequately disclosed or described in the IPO Prospectus. During the February 6,

- Roy Jacobs & Associates Announces That Only Ten Days Remain for Purchasers of Orion Energy Systems, Inc. Securities to Apply for Lead Plaintiff -- OESX - PrimeNewswire (Tue Apr 1)
- More...

- By industry: Diversified Electronics



### Top Stories

- [Washington Mutual Raising \\$7 Billion](#) - AP (10:22 am)
- [Stocks Slip After Disappointing Earnings](#) - AP (11:36 am)
- [Pending Home Sales Hit Low in February](#) - AP (11:07 am)
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Roy L. Jacobs, Esq.  
1-888-884-4490  
rjacobs@jacobsclasslaw.com  
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# **EXHIBIT D**

# **EXHIBIT D**

## PASKOWITZ & ASSOCIATES

### FIRM RESUME

Paskowitz & Associates specializes in class actions brought on behalf of shareholders and consumers.

Mr. Laurence Paskowitz, the firm's senior attorney, began his career at what was then Pomerantz Levy Haudek & Block (now Pomerantz Haudek Block Grossman & Gross), a firm founded by the late Abraham Pomerantz, who was often referred to as "the father of the shareholder class action." During his tenure there as an associate from 1983-89, Mr. Paskowitz played a principal role in a variety of cases involving tender offers, mergers, securities fraud, and antitrust law.

Mr. Paskowitz joined Wolf Popper Ross Wolf & Jones in 1989 (now Wolf Popper, LLP), became a partner in 1991, and then Chairman of the Corporate and Commercial Litigation Department in 1995. Wolf Popper is one of the most prominent national firms specializing in shareholder and consumer rights, and complex corporate litigation. While there, Mr. Paskowitz served as lead counsel or co-lead counsel on more than two dozen shareholder actions, including class and derivative actions involving excessive compensation. Mr. Paskowitz won settlements of \$12 million derivatively on behalf of Brooke Group, Inc., a similar amount for Citizens Utilities Corp., and \$9 million for Lin Broadcasting Corp. Mr. Paskowitz also played a leading role in obtaining class action settlements in securities fraud actions against Tenneco Corp. (\$50 million settlement); McDonell Douglas Equipment Leasing Securities Litigation (\$35 million recovery); Valley National Corp. (\$10 million settlement); and Security Pacific Corp. (\$9 million settlement). From 1997-2000, Mr. Paskowitz was a sole practitioner, who



continued to specialize in shareholder litigation. During this period, he was among a team of lawyers who initiated the shareholder litigation over the collapse of USN Communications, an action which was resolved for \$45 million.

In 2000, Mr. Paskowitz formed the firm of Abraham & Paskowitz. During his tenure at that firm from 2000 through March, 2002, Mr. Paskowitz served as lead or co-lead counsel for cases that achieved substantial recoveries, including *In re Netcreations Shareholder Litigation* (improvement in buyout price of \$12 million for class of investors) and *In re CSFBdirect Shareholders Litigation* (shareholders who objected to unfair tender offer price paid \$36 million more for their shares pursuant to settlement). The firm also recovered \$20 million in cash in a “short swing” insider profit case--what was then the largest cash recovery ever achieved in a case of that nature *Steiner v. Williams*, 2001 U.S. Dist. LEXIS 7097 (S.D.N.Y. May 31, 2001)(“Here the shareholders...received a \$20,000,000 benefit as a sole result of the diligence and sagacity of Plaintiff’s counsel.”).

Mr. Paskowitz graduated with highest honors from the Hofstra University School of Law in 1983, where he served as an editor of the *Hofstra Law Review*. He has published articles that have appeared in the *Hofstra Law Review* and *The New York Law Journal*, and has been a member of the New York State Bar Association Committee on Class Actions. Mr. Paskowitz has been admitted to the U.S. District Courts for the Southern and Eastern Districts of New York, the District of Arizona, and the Federal Courts of Appeals for the Second and Fifth Circuits. He has practiced before federal and state courts throughout the country, and before the Judicial Panel on Multidistrict Litigation.

Paskowitz & Associates was founded in April, 2002 and employs as “of counsel” to the firm Mr. Roy L. Jacobs, an attorney who has concentrated in shareholder litigation for over 20 years, and who has been instrumental in guiding complex litigations which have achieved millions of dollars in recoveries.

Mr. Jacobs, is a 1975 *cum laude* graduate of Brooklyn Law School. From 1975-1987 he was an attorney in Texaco Inc.’s legal department at its corporate headquarters, wherein he successfully handled a wide array complex commercial and antitrust litigation from inception through trial, including an eight week antitrust jury trial in the United States District Court for the Southern District of California, which resulted in a complete victory for Texaco.

Thereafter, while at Wolf Popper LLP, a firm which concentrated in securities and shareholder litigation, Mr. Jacobs worked on numerous complex class and derivative actions, and handled much of the Firm’s non-class litigation, representing both plaintiffs and defendants from inception through trial. While at Wolf Popper, Mr. Jacobs was one of the lead counsel in *Maywalt v. Parker & Parsley Petroleum Company*, 864 F. Supp. 1422 (S.D.N.Y. 1994), *aff’d* 67 F.3d 1072 (2d Cir. 1995), which resulted in a recovery to the shareholder class in excess of \$8 million.

In December 1996, he opened his own firm in New York City emphasizing business and commercial litigation, securities arbitrations, securities and consumer class actions and general litigation. Since opening his own practice, Mr. Jacobs has recovered millions of dollars for clients, including the settlement of an action pending in the United States District Court for the Central District of California of almost \$4 million from an insurance company which had failed to pay on a life insurance policy. The settlement

constituted approximately 2.5 times the face amount of the policy. Mr. Jacobs has also obtained numerous favorable settlements in securities arbitrations and mediations before NASD Regulation, Inc. and the New York Stock Exchange representing customers against Broker-Dealers. In court cases, Mr. Jacobs has obtained recoveries in a wide range of matters, including will contests, real property quiet title actions, EEOC actions, actions for false arrest and other intentional torts. Additionally, Mr. Jacobs has successfully defended clients sued in both state and federal court in New York, securing dismissal of the claims against them, including actions under the securities laws, fraudulent conveyance claims and piercing the corporate veil. Mr. Jacobs has handled a number of appeals in state and federal courts.

Mr. Jacobs has over 25 years experience in handling complex litigation and corporate matters. He is admitted to the courts of New York, the United States District Courts for the Southern and Eastern Districts of New York, and the United States Courts of Appeal for the Second, Seventh, Ninth, and D.C. Circuits.

Paskowitz & Associates served as lead counsel or co-lead counsel in *Steven Madden Corp. Derivative Litigation* (achieving \$8.6 million derivative settlement in action alleging unfair employment contract for CEO who was convicted of money laundering and securities fraud); *Capital One Consumer Practices Litigation* (predatory lending practices); and played a key role in achieving a \$41 million settlement in *In re New Power Secs. Litig*, 02 CV 0550 (SDNY), where the firm represented Co-Lead Plaintiff Michael Bertan.

In addition, Paskowitz & Associates was appointed Co-Lead Counsel by the Delaware Court of Chancery in *In re Cablevision/Rainbow Media Tracking Stock*



*Litigation, Cons.* C.A. No. 19819, which seeks over \$1 billion in damages relating to an unfair transaction with minority shareholders. On April 19, 2005, the Court in that action denied a motion to dismiss. We also serve as lead counsel in *Berger v. Scharf*, a class action pending in New York Supreme Court on behalf of shareholders who were harmed when the directors breached their fiduciary duties by voluntary de-listing the company's public shares. In that case, we recently prevailed on a motion to dismiss in a decision which made new law regarding shareholder rights. *Berger v. Scharf*, 2006 N.Y. Misc. LEXIS 674 (N.Y. Sup. Mar. 29, 2006). We additionally have been appointed as co-lead counsel in *In re MBNA Corp. Derivative and Class Litigation*, a case pending in the United States District Court for the District of Delaware which challenges the fairness of the \$36 billion acquisition of MBNA by Bank of America.